

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LONNIE THOMAS,

Plaintiff,

-against-

ANSWER

Jury Trial Demanded

08 Civ. 1054 (LAP)

THE CITY OF NEW YORK, et al.,

Defendants.

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The City of New York by its attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for its answer to the complaint, respectfully alleges, upon information and belief, as follows:

1. Denies the allegations set forth in paragraph "1" of the complaint, except admits plaintiff purports to proceed as stated therein.

2. Denies the allegations set forth in paragraph "2" of the complaint, except admits plaintiff purports to proceed as stated therein.

3. Denies the allegations set forth in paragraph "3" of the complaint, except admits plaintiff purports to invoke the jurisdiction of the Court as stated therein.

4. Denies the allegations set forth in paragraph "4" of the complaint, except admits plaintiff purports to base venue as stated therein.

5. Paragraph "5" contains no averments of fact to which a response is required.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "6" of the complaint.

7. Admits the allegations set forth in paragraph "7" of the complaint.

8. Defendant states that the allegations in paragraph "8" of the complaint constitute legal conclusions to which no response is required, except defendant respectfully refers the Court to the New York City Charter and the Administrative Code for a recitation of the relationship between defendant City of New York and the New York City Police Department.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "9" of the complaint as it pertains to unidentified defendants.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "10" of the complaint as it pertains to unidentified defendants.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "11" of the complaint as it pertains to unidentified defendants.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "12" of the complaint as it pertains to unidentified defendants.

13. Denies the allegations set forth in paragraph "13" of the complaint.

14. Denies the allegations set forth in paragraph "14" of the complaint.

15. Denies the allegations set forth in paragraph "15" of the complaint.

16. Denies the allegations set forth in paragraph "16" of the complaint.

17. Denies the allegations set forth in paragraph "17" of the complaint.

18. Denies the allegations set forth in paragraph "18" of the complaint.

19. Denies the allegations set forth in paragraph "19" of the complaint.

20. Denies the allegations set forth in paragraph "20" of the complaint.

21. Denies the allegations set forth in paragraph "21" of the complaint.

22. Denies the allegations set forth in paragraph "22" of the complaint.

23. Denies the allegations set forth in paragraph "23" of the complaint.

24. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "24" of the complaint.

25. Denies the allegations set forth in paragraph "25" of the complaint.

26. In response to the allegations set forth in paragraph "26" of the complaint, defendant repeats and realleges the responses set forth in paragraphs "1" through "25" inclusive of this answer, as if fully set forth herein.

27. Denies the allegations set forth in paragraph "27" of the complaint.

28. Denies the allegations set forth in paragraph "28" of the complaint.

29. Denies the allegations set forth in paragraph "29" of the complaint.

30. Denies the allegations set forth in paragraph "30" of the complaint.

31. Denies the allegations set forth in paragraph "31" of the complaint.

32. In response to the allegations set forth in paragraph "32" of the complaint, defendant repeats and realleges the responses set forth in paragraphs "1" through "31" inclusive of this answer, as if fully set forth herein.

33. Denies the allegations set forth in paragraph "33" of the complaint.

34. Denies the allegations set forth in paragraph "34" of the complaint.

35. In response to the allegations set forth in paragraph “35” of the complaint, defendant repeats and realleges the responses set forth in paragraphs "1" through “34” inclusive of this answer, as if fully set forth herein.

36. Denies the allegations set forth in paragraph "36" of the complaint.

37. Denies the allegations set forth in paragraph "37" of the complaint.

38. Denies the allegations set forth in paragraph "38" of the complaint.

39. Denies the allegations set forth in paragraph "39" of the complaint.

40. Denies the allegations set forth in paragraph "40" of the complaint.

41. Denies the allegations set forth in paragraph "41" of the complaint.

42. Denies the allegations set forth in paragraph "42" of the complaint.

43. Denies the allegations set forth in paragraph "43" of the complaint.

44. In response to the allegations set forth in paragraph “44” of the complaint, defendant repeats and realleges the responses set forth in paragraphs "1" through “43” inclusive of this answer, as is fully set forth herein.

45. Denies the allegations set forth in paragraph "45" of the complaint.

46. Denies the allegations set forth in paragraph "46" of the complaint.

47. Denies the allegations set forth in paragraph "47" of the complaint.

48. Denies the allegations set forth in paragraph "48" of the complaint.

49. In response to the allegations set forth in paragraph “49” of the complaint, defendants repeats and realleges the responses set forth in paragraphs "1" through “48” inclusive of this answer, as is fully set forth herein.

50. Denies the allegations set forth in paragraph "50" of the complaint.

51. Denies the allegations set forth in paragraph "51" of the complaint.

52. Denies the allegations set forth in paragraph "52" of the complaint.

53. In response to the allegations set forth in paragraph "53" of the complaint, defendants repeats and realleges the responses set forth in paragraphs "1" through "52" inclusive of this answer, as is fully set forth herein.

54. Denies the allegations set forth in paragraph "54" of the complaint.

55. Denies the allegations set forth in paragraph "55" of the complaint.

56. Denies the allegations set forth in paragraph "56" of the complaint.

57. Denies the allegations set forth in paragraph "57" of the complaint, including all subparts.

58. Denies the allegations set forth in paragraph "58" of the complaint.

59. Denies the allegations set forth in paragraph "59" of the complaint.

60. Denies the allegations set forth in paragraph "60" of the complaint.

61. Denies the allegations set forth in paragraph "61" of the complaint.

62. Denies the allegations set forth in paragraph "62" of the complaint.

63. Denies the allegations set forth in paragraph "63" of the complaint.

64. Denies the allegations set forth in paragraph "64" of the complaint.

65. Denies the allegations set forth in paragraph "65" of the complaint, including all subparts.

66. Denies the allegations set forth in paragraph "66" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

67. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

68. Defendant has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

69. At all times relevant to the acts alleged in the complaint, defendant City of New York acted reasonably in the proper and lawful exercise of its discretion; therefore, it is entitled to state law governmental immunity.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

70. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct and was not the proximate result of any act of the defendant.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

71. Plaintiff has failed, in whole or in part, to comply with New York General Municipal Law § 50-e.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

72. There was probable cause for plaintiff's arrest, detention and prosecution.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

73. Plaintiff's claims are barred, in part, by the applicable Statute of Limitations.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

74. Punitive damages cannot be assessed as against the City of New York.

